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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,226

02/22/2005

Junichi Ninomiya

SIG-008

7185

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EXAMINER

BOUCHELLE, LAURA A

ART UNIT	PAPER NUMBER
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3763

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,226

Applicant(s)

NINOMIYA ET AL.

Examiner

Laura A. Bouchelle

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 18 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/22/05</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____</p> |
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DETAILED ACTION

Claim Objections

1. Claims 18, 21 are objected to because of the following informalities: It appears that claims 18 and 21 recite method steps within an apparatus claim. The limitations of an apparatus claim must provide some positive recitation of a structural element. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldberg et al (US 5601580). Goldberg discloses a venous cutter comprising a first wire 15 having an insert head 12 and a first connecting means 138, a second wire 16 having a second connecting means 124, a vein ligating portion 36, and a gripping portion 18. The connecting means are male and female screws. See Fig. 4A.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Nobles (US 5026383). Claim 9 differs from Goldberg in calling for the wire to have an outer diameter of 1.5-3.0 mm. Nobles teaches an apparatus for cutting veins comprising a wire having an outer diameter of 2.0 or 2.5 mm to allow the catheter to be inserted into the desired portion of a vein (Col. 4, lines 33-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Goldberg to have an outside diameter of 2.0-2.5 mm as taught by Nobles so that the device can be inserted into a vein.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Nobles as applied to claim 9 above, and further in view of Iwatschenko (US 4306563). Claim 10 differs from the teachings above in calling for the surface of the device to be coated. Iwatschenko teaches a catheter for insertion into the body having a coating of silicone resin to increase the compatibility within the body and to prevent toxic reactions (Col. 1, lines 48-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Goldberg in view of Nobles to have a silicone resin coating as taught by Iwatschenko to increase biocompatibility and prevent toxic reactions.

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7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Nobles in view of Iwatschenko as applied to claim 10 above, and further in view of Weiss (US 4880412). Claim 11 differs from the teachings above in calling for the device to have depth marks. Weiss teaches a device for inserting catheter tubes having a catheter with marks at regular intervals to show the depth of penetration of the catheter into the vein (Col. 7, lines 43-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device above to have depth markers as taught by Weiss so that the user can determine how far the device has been inserted into the vein.

8. Claims 14-18, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Ouriel et al (US 4952215). Claims 14-17 differ from Goldberg in calling for a tube and a pouring port. Ouriel teaches a valvulotome with a fluid supply comprising a fluid supply tube 60 and a fluid coupling 75 to allow fluid to be delivered after the vein is cut. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Goldberg to have a fluid supply as taught by Ouriel so that fluid can be delivered after the vein is cut.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Ouriel as applied to claim 14 above, and further in view of Sekino et al (US 4977902). Claim 19 differs from Goldberg in calling for a supersonic wave irradiating means. Sekino teaches a catheter having a supersonic irradiating means to treat a diseases portion of the body. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device

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of Goldberg in view of Ouriel to have an irradiating means as taught by Sekino to treat the diseased portion of the body.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldberg in view of Ouriel as applied to claim 14 above, and further in view of Sinofsky (US 5196004). Claim 20 differs from the teachings above in calling for a laser beam irradiating means. Sinofsky teaches a catheter having a laser that delivers irradiating energy to a biological tissue for removal or repair. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Goldberg in view of Ouriel to have a laser beam irradiating means as taught by Sinofsky to remove or repair tissue.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle
Examiner
Art Unit 3763



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